

VERN H. BOLINDER

IBLA 76-143

Decided September 26, 1975

Appeal from decision of the Utah State Office, Bureau of Land Management, rejecting oil and gas lease offer U 28081.

Affirmed.

1. Oil and Gas Leases: Applications: Generally -- Oil and Gas Leases: Lands Subject to

Land included in an oil and gas lease which terminates by operation of law for failure to pay rental timely, is subject to filing of new oil and gas lease offers only in accordance with the provisions of the regulations relating to simultaneous filing of oil and gas lease offers, and the filing of an over-the-counter lease offer will not interdict the simultaneous filing procedure as to that land.

APPEARANCES: Vern H. Bolinder, pro se.

OPINION BY ADMINISTRATIVE JUDGE HENRIQUES

Vern H. Bolinder has appealed from a decision of the Utah State Office, Bureau of Land Management (BLM), dated July 9, 1975, rejecting his noncompetitive oil and gas lease offer U 28081 for lots 3, 4, E 1/2 SW 1/4, SE 1/4 sec. 18, all sec. 19, T. 26 S., R. 16 W., S.L.M., and S 1/2 sec. 23, all sec. 24, T. 26 S., R. 17 W., S.L.M. The lands embraced by this lease offer had formerly been included in oil and gas lease U 21339. That lease which had been issued to the appellant and one D. G. Newdigate, effective February 1, 1973, terminated by operation of law on February 1, 1974, when the advance annual rental was not paid as required by the Act of July 29, 1954, 68 Stat. 585, 30 U.S.C. § 188(b) (1970). Appellant thereupon petitioned for reinstatement of lease U 21339

pursuant to the Act of May 12, 1970, 84 Stat. 206, 30 U.S.C. § 188(c) (1970). The Utah State Office determined that the failure to pay the rental timely was due to a lack of reasonable diligence and was not justifiable and therefore declined to reinstate the lease. On appeal this Board affirmed the actions of the State Office in Vern H. Bolinder, 17 IBLA 9 (1974).

Subsequent to the denial of the petition for reinstatement, but prior to the posting of the lands as available for oil and gas leasing, appellant filed offer U 28081, the subject of the instant appeal. The offer was sent by the State Office to the Fillmore District Office. While the offer was pending in the District Office, the State Office posted the lands as available for offers pursuant to the simultaneous filing procedure. See 43 CFR Subpart 3112. A number of drawing entry card offers were received and a drawing was held pursuant to the regulations of that Subpart, but all drawees failed to qualify for a lease.

Upon learning of the drawing, appellant contacted the State Office to inquire of the status of his application. He was informed that the State Office had erred in referring his application to the District Office, and that the correct procedure would have been to immediately reject his application. His application was subsequently rejected, from which action he has pursued this appeal.

[1] We note at the outset that appellant's over-the-counter noncompetitive offer filed when the lands were not open to oil and gas lease offers was properly rejected. Furthermore, the regulations make it clear that lands embraced in a lease which become available on the termination of the lease are initially subject to filing only under the simultaneous filing procedures. Thus, 43 CFR 3112.1-1 states:

(a) Lands in canceled or relinquished leases or in leases which terminate by operation of law for non-payment of rental pursuant to 30 U.S.C. sec. 188, which are not withdrawn from leasing nor on a known geological structure of a producing oil and gas field shall be subject to the filing of new lease offers only after notation on the official record of the cancellation, relinquishment, or termination of such lease and only in accordance with the provisions of this section. * * * (Emphasis supplied.)

Therefore, the lands embraced in oil and gas lease offer U 28081 were not subject to leasing at the time of appellant's over-the-counter application and rejection of that offer was mandatory.

Appellant suggests that the State Office was negligent in failing to notify him that the lands would be placed on the simultaneous filing list. The State Office, however, is under no obligation to notify

prospective oil and gas lease offerors in an individual manner that certain lands are or will be open for the filing of simultaneous offers. The Notice of Available Lands was posted in the State Office so that all members of the public who were concerned with such matters would be able to ascertain which lands were involved in that month's simultaneous drawing. The filing of an invalid over-the-counter offer did not entitle appellant to special notification of the availability of the lands upon which he sought an oil and gas lease.

Finally, it appears that appellant is also seeking reconsideration of the Board's decision in Vern H. Bolinder, *supra*. This Board has maintained a consistent practice of declining to entertain petitions for reconsideration of decisions relating to oil and gas leases filed more than 90 days after receipt of an original decision since section 5 of the Act of September 2, 1960, 30 U.S.C. § 226-2 (1970), provides that "[n]o action contesting a decision of the Secretary involving any oil and gas lease shall be maintained unless such action is commenced or taken within ninety days after the final decision of the

Secretary relating to such matter." In any case, appellant presents no arguments as to why the original Board decision should not be reaffirmed.

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed.

Douglas E. Henriques
Administrative Judge

We concur:

Edward W. Stuebing
Administrative Judge

Anne Poindexter Lewis
Administrative Judge

